

ASSEMBLY BILL

No. 1604

Introduced by Assembly Member Campos

February 7, 2012

An act to add Section 632.2 to the Penal Code, relating to wiretapping.

LEGISLATIVE COUNSEL'S DIGEST

AB 1604, as introduced, Campos. Invasion of privacy: computer crimes.

Existing law makes it a misdemeanor to, by means of any machine, instrument, or contrivance, or in any other manner, intentionally tap, or make an unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with a telegraph or telephone wire, line, cable, or instrument, including the wire, line, cable, or instrument of an internal telephonic communication system, or to willfully and without the consent of all parties to the communication, or in any unauthorized manner, read or attempt to read, or to learn the contents or meaning of a message, report, or communication while the same is in transit or passing over a wire, line, or cable, or is being sent from, or received at any place within this state. Existing law also makes it a misdemeanor to intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrop upon or record the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio.

This bill would authorize a person to intercept the wire or electronic transmissions of a computer trespasser, as defined, if specified

conditions are met, including authorization by the owner or operator of the computer system and being engaged in an investigation.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 632.2 is added to the Penal Code, to read:
2 632.2. (a) Notwithstanding other provisions of law, a person
3 may intercept the wire or electronic transmissions of a computer
4 trespasser if all of the following conditions are met:
5 (1) The communications are transmitted from, to, or through a
6 computer system.
7 (2) The owner or operator of the computer system authorizes
8 the interception of the communication.
9 (3) The person is engaged in an investigation.
10 (4) The person has reason to believe that the information
11 intercepted will be relevant to the investigation.
12 (5) The interception does not acquire information other than
13 that transmitted to, from, or through the computer system by the
14 computer trespasser.
15 (b) For purposes of this section, the following definitions shall
16 apply:
17 (1) "Computer trespasser" means a person who accesses a
18 computer system without the authorization of the person who owns
19 or has legal possession of the computer system. A computer
20 trespasser has no reasonable expectation of privacy in
21 communications made to, from, or through the computer system.
22 A person known by the owner or operator of the computer system
23 to have an existing contractual relationship with the owner or
24 operator of the computer system for access to all or part of the
25 computer system shall not be considered a computer trespasser.
26 (2) "Computer system" shall have the same meaning as in
27 paragraph (5) of subdivision (b) of Section 502.